REASONS

FOR AN

AMENDMENT

OF THE

STATUTE of 28 HENRY VIII. c. 11. § 3.

WHICH GIVES

To the Succeſſor in Eccleſiaſtical Benefices all the Profits from the Day of the Vacancy:

IN A

LETTER to a FRIEND,

FROM A

COUNTRY CLERGYMAN.

Veri juris, germanæque [illegible] ſolidam et expreſſam effigiem nullam tenemus; umbris et imaginibus utimur.

Cic. de Off.

Provided, that this preſent Ordinance ſhall endure until the next Parliament, and ſo forth; except in the ſaid Parliament a reaſonable Cauſe be alledged, ſhewed, and proved, for the which it ſhall ſeem not expedient that the aforeſaid Ordinance ſhall ſo endure.

Stat. 27 Hen. VI. c. 5.

LONDON:

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M DCC LXX.

Price One Shilling.

REASONS

FOR AN

AMENDMENT, &c.

Dear SIR,

A Converſation, which paſſed at the funeral of the late worthy Rector of ——, affected me very ſenſibly at that time; and, as often as the ſubject has recurred to my thoughts, it has not failed to excite the ſame painful emotions. The occaſion of our meeting naturally led us to conſider the melancholy ſtate of the families of the clergy,

when deprived of their principal ſupport, and particularly of the widow and children of our deceaſed friend. Their diſtreſſes indeed were much heightned by theſe circumſtances; that the huſband and parent, whom they had loſt, was removed from them at the eve of harveſt, and that he had been obliged to ſink a conſiderable part of his private fortune in building a houſe upon a living, which he had not long enjoyed.

You, arguing upon equitable principles, and biaſsed by a benevolent diſpoſition, warmly declared it to be your opinion, that the repreſentatives of a man, who had diſcharged the duty of the pariſh ten months out of twelve, had a ſtrict right to a due proportion of the annual revenue; and that an allowance ought alſo to be made to them, for money expended in improving the preferment. To convince you of your miſtake, I referred you to an old partial act of parliament ſtill in force, and too frequently in uſe, which gives to the ſucceſſor all profits from the day of avoidance of the living. I added further, that you ſeemed to have forgot you had croſſed the Iriſh ſeas: for though, in your country, two thirds of the charge of building and rebuilding parſonage houſes, reverts to the family of him who incurred the firſt expence, yet that juſt and politic law was never introduced into this kingdom.

The reſult of our converſation was, that if the laws at preſent bore ſo hard on the relations of clergymen, it was reaſonable an alteration ſhould be

be made in their favor; and you was diſpoſed to believe, that a true ſtate of their grievance might have this deſired effect. Diffident of my own abilities, I declined the taſk aſſigned me by yourſelf and ſeveral other friends of drawing it up, and expreſſed my hearty wiſhes that you would engage the pen of ſome perſon better qualified to do juſtice to the ſubject. We all agreed we knew, by name, one Gentleman of our profeſſion; who, by many judicious remarks diſperſed through his valuable digeſt of our eccleſiaſtical law, had given undeniable proofs how well inſtructed he was to furniſh and enforce proper arguments for an amendment of any part of it. None of us, however, having even a perſonal acquaintance with him, we thought it would ſhew great forwardneſs to trouble him with an application. As the reſt of the company could not be prevailed upon to accept the employment, and were, in this inſtance, at a loſs for a willing advocate in behalf of the diſtreſſed relicts of our brethren: leſt a repreſentation of their caſe ſhould not be made, I at length conſented to your earneſt requeſts, and now ſubmit to public view the following reaſons for an alteration of a Statute which we judged ſo great a grievance.

But, before I examine this Act, viz. 28 Hen. VIII. c. 11. § 3. an inquiry into the antient practice of ſettling the proportion of profits due to new incumbents and the repreſentatives of predeceſſors, cannot be deemed an idle curioſity. Not that I would be underſtood to intimate that the old cuſtom ought to be revived. The reaſon,

however, on which that was founded, may certainly, if a juſt one, be urged for the alteration propoſed.

It was then, Sir, a conſtant uſage of this church, when ſettled does not appear, that if the miniſter of a pariſh lived till Lady-day, or a few weeks after, he had a right of diſpoſing by will of the fruits of the next harveſt. This cuſtom, having been fixed to Lady-day, and confirmed by Edmund (1) of Abington, Archbiſhop of Canterbury, A. D. 1236, was received as an eſtabliſhed law. The ſtatutes of many cathedral and collegiate churches were ſtill more favorable to their reſpective members, than this conſtitution was to the parochial clergy. For the former were generally allowed a power of bequeathing a whole year's income of their preferment from the day of their death (2).

The gloſs of Lyndwood upon the Conſtitution of Edmund of Abington deſerves our notice. "The feaſt of the annunciation, ſays this eminent "Civilian (3), was partly fixed for the ſake of the

(1) Concilia Magnæ Britanniæ, &c. by Wilkins, v. I. p. 638.

(2) Conſtit. Thurſtan. Eboracen. Archiep. A. D. 1134. Wilkins Concil. v. I p. 412.—Charta Lincoln. Eccles. A. D. 1212. Id. v. I. p. 538.—Bulla Honorii III. Papæ Decano et Capit. Lichefeldenſi, A. D. 1222. Id. v. I. p. 597.

(3) Lyndwood de Conſuetudine, Lib. I. Tit. 3. Nullus Rector, &c. Tempus annunciationis apponitur-gratia Rectoris incumbentis officio, qui forſan totâ hyeme deſervivit eccleſiæ, et nulla vel pauca emolumenta, cum nulla vel modica interim provenerint, de ipſa eccleſia perceperit, nec percipere potuit: et qui, niſi eſſet iſta conſuetudo, alias ad debita ſua perſolvenda, &c.

" the incumbent; who, having diſcharged the " duty all the winter, when little or no profit ac- " crues from the preferment, muſt otherwiſe re- " ceive a very ſmall recompence: the conſequence " whereof would be an inability to pay his debts." But, juſtifiable as this reaſon muſt appear to every impartial perſon, it did not eſcape a ſevere ſtricture from Dr Humphry Prideaux, formerly Dean of Norwich, in a Tract (4) publiſhed by him to diſcourage an intended application to parliament for altering the preſent method of diviſion. As this reverend and learned Gentleman was much reſpected for his knowledge of the eccleſiaſtical laws of this country, his pamphlet had probably too much weight at that time: though, I muſt own, upon a careful and frequent peruſal of it, his arguments do not appear to me to be deciſive; and I am ſuſpicious, that a deference was rather ſhewn to his ſtation and character, than the force of his reaſoning. In the paſſages here referred to, he is chargeable with drawing an unfair concluſion; and with a miſrepreſentation, and no very liberal inſinuation that the debts of the clergy muſt be contracted by a vicious extravagance.

" I find, ſays he, for the firſt introducing of " that cuſtom of allowing the predeceſſor of an " eccleſiaſtical living the next harveſt after his de- " ceaſe, ſuch an odd reaſon given, as the miſ- " carriages of thoſe who were to have the benefit " of it (5); viz. that it did often happen that

(4) See Eccleſiaſtical Tracts by Humphry Prideaux, D. D. Dean of Norwich, p. 236, 237.

(5) Synodus Exonienſis Dioc. a Petro Quivil, A. D. 1287. Wilkins Concil. vol. II. p. 157.

" Rectors did lead ſuch diſſolute lives, that when
" they came to die, they did leave thoſe debts be-
" hind them as would never be paid, unleſs the
" next harveſt after their deceaſe were allowed
" them for this purpoſe; and then obſerves, this
" is the firſt inſtance I have ever met with, where
" the faults of men have been alledged for the rea-
" ſon of a law granted in their favor."

Now, with ſubmiſſion, even this conſtitution could not be ſaid to have been enacted for the benefit of thoſe, who had diſſolutely ſquandered their ſubſtance: for it was not to take place till after their deceaſe; when it could not be material to them who received the future profits of their preferments. The faultleſs and injured creditors were the objects of it: and therefore a cuſtom, which ſecured to them their juſt claim, is with propriety commended (1).

Had the Dean conſulted the determinaton of a ſynod of his own dioceſe of Norwich, held in the year 1255, he would have found that Biſhop Walter de Suthfeld, and his clergy, had a more favorable opinion of this practice. For, after having mentioned it to have commenced, probably, at the time of the foundation of that church, the breach of it, in not ſuffering the will of the deceaſed to be fulfilled, is declared to be very unjuſt; and excommunication is threatned by them to the violators of ſo valuable a privilege (2). It was, beſides, no proof

(1) Laudabilem conſuetudinem approbantes.

(2) Synodus Norvicenſis, A. D. 1255. Wilkins Concil. vol. I. p 708, 709. A conſtitution, ſimilar to this of Walter de Suthfeld, was confirmed by Cardinal Wolſey for the clergy of the province of York, A. D. 1518. Id. vol. III. p. 663.

proof of the Dean's impartiality to ſelect the conſtitution of Peter de Quivil, and to omit others of a prior date, which aſſign more candid reaſons for introducing a cuſtom ſtill more advantageous to the repreſentatives of clergymen. By the conſtitution of Thurſtan, Archbiſhop of York (3), which allows the prebendaries of all the collegiate churches in that dioceſe to diſpoſe of a year's profits of their preferments after their death; it is aſſerted to be an act of charity and humanity to provide for the diſcharge of the debts of the clergy, who, like other men, too frequently contract them from neceſſity, or the frailty of their nature. The members of the church of Lincoln have enjoyed for upwards of five hundred years the benefit of this rule, whether they happened to be encumbred with debts or not. And a Bull of Pope Honorius III. confirmed an old law of the ſame kind to the Dean and Chapter of Litchfield, and anathematized the infringers of this liberty. Nor was the practice peculiar to this country. We find it uſed in ſome parts of Ireland. In a ſynod of the dioceſe of Ferns, held in 1240, this rule was, by the unanimous conſent of the clergy, to be inviolably obſerved (4). This conſtitution mentions the ſame cuſtom to have prevailed in the dioceſe of Dublin; and it was likewiſe confirmed by a council of the province of Caſhell held at Limeric in 1453 (5).

I am,

(3) See the page in Wilkins Concil. referred to in note (2).

(4) Synodus celebr. per Epiſc. Fernenſem, Wilkins Concil. vol. I. p. 681. in which is the following paſſage, too applicable to the parochial clergy of this kingdom. *Quod plerumque contingit quod rectores & vicarii, &c.—Per exilitatem beneficiorum & onera, in tanta paupertate decedant, ut nihil relinquant, unde debita ſua creditoribus ſolvantur.*

(5) Wilkins Concil. vol. III. p. 569.

I am, from theſe inſtances, able to correct a miſtake of Dr Prideaux, who ſays that this cuſtom was peculiar to this kingdom, and practiſed in it contrary to the uſage of all other churches (1). The cloſet of a country clergyman does not afford him an opportunity of conſulting the eccleſiaſtical laws and cuſtoms of every other nation: but the foregoing references are ſufficient to ſubvert his general aſſertion, and to ſhew that the practice was not abſolutely confined to this country. That it was contrary to the canon law ſhall be admitted; and I will give you a reaſon why it was on that account repeatedly enforced. The ſecular clergy, as well as the laity, of England, were ever averſe to a ſyſtem of laws, which were diametrically oppoſite to the mild and free ſpirit of our conſtitution, and ſtrenuouſly withſtood the introduction of many of them. In the point now under our inquiry, the former had a particular motive for guarding againſt an innovation. By the canon law, not only the ſubſequent profits, but what an incumbent had ſaved from the fruits of his benefice, were to revert to the church. This was a ſevere rule, though it will admit of ſome extenuation, as eccleſiaſtics were not then ſuppoſed to have wives and children. To the clergy, however, of this kingdom, who did not for many years after the conqueſt, if ever, ſubmit to the Pope's arbitrary and unnatural injunctions of celibacy, this article of the canon law was an intolerable grievance (2). They, therefore, reſolutely

(1) Dr Prideaux Eccl. Tracts, p. 222.

(2) In the body of canons which K. Charles I. indiſcreetly and arbitrarily attempted to impoſe upon the church of Scotland, after they had been peruſed and altered by Archbiſhop Laud,

ſolutely maintained their own more deſirable cuſtom till the reign of Henry VIII. when it was ſuperſeded by the Act of which we complain.

The profeſſed deſign of this Bill, as appears from the preamble, was to ſuppreſs a practice, too common among the Biſhops of that age, of deferring collation or inſtitution to benefices, becauſe they were intitled to the profits during the vacancy; and to enable the ſucceſſor to defray the heavy charge of firſt-fruits. It will be ſufficient to have barely mentioned the firſt reaſon; for the evil, againſt which it was intended to guard, might as well have been prevented by a diviſion of the profits between the heirs of the predeceſſor and the new incumbent, as by giving them all to the latter. However, I cannot omit this opportunity of publicly declaring my ſentiments, that there is no danger of our preſent eccleſiaſtical governors attempting to revive their claim; being perſuaded that they are deſirous of increaſing, inſtead of diminiſhing, the income of the parochial clergy. But the allowance made to the ſucceſſor towards the payment of his firſt-fruits deſerves your attention. And that you may form an exact judgment of the ſubject, it will be requiſite to point out to you the true reaſons which occaſioned this extraordinary indulgence to him.

When

Laud, was one, to *oblige* all Biſhops and Eccleſiaſtics, who died without children, to leave a good part of their eſtates to the church; and though they ſhould have children, to leave ſomewhat to the church and to the advancement of learning. The Earl of Clarendon obſerves, that this injunction was diſliked, becauſe it ſeemed to reflect upon the intereſts of thoſe who had, or might have, a right to inherit from clergymen.

Hiſt. of Rebel. vol. I. p. 106.

When the See of Rome obſtinately perſiſted in a refuſal to comply with Henry's requeſt of diſſolving his marriage with Queen Catharine of Arragon; he, in hopes of influencing or intimidating that rapacious and imperious court, procured an Act of parliament, which empowered him to ſuſpend and reſtrain, or aboliſh, the payment of firſt-fruits to the Pope. This Bill began in the convocation; nor can we be ſurprized at the earneſt deſire of the clergy to be freed from an exaction, to which they were ſubject on coming into their preferments. They were diſappointed in their expectations, and ſoon found that his Majeſty's intention was not to aboliſh the payment of firſt-fruits, but to draw them into a different channel. In July 1533, the Act received a final confirmation from the King; and in the beginning of the following year firſt-fruits were annexed to the crown (1).

Our brethren ſuffered from this change. Burdenſome as the Roman Pontif's claim had been, it principally affected clerks collated to benefices by proviſion from thoſe paramount Lords; and theſe benefices were generally the moſt lucrative (2). Whereas the Act, which gave firſt-fruits to the King, comprized all eccleſiaſtical preferments. Beſides, though the papal impoſition was unreaſonable, it fell very ſhort of the ſum which was now to be levied. The money heretofore paid was according to a valuation made in the reign of Edward

(1) Biſhop Burnet's Hiſt. of the Reformation, vol. I. p. 113. and Strype's Eccleſiaſt. Memorials, vol. I. p. 144.

(2) Godolphin Repertorium Canonicum, p. 337, and Appendix to Strype's Life of Archbp Whitgift, N° xxvi. p. 100.

Edward I. (3); but, in conſequence of this Act, there was a new ſurvey; and every poſſible method was taken to diſcover the extended value of each benefice. It appears from Brydges's Hiſtory of Northamptonſhire, that there were very few livings in that county, but what were raiſed to twice, ſeveral ſet at three times, the former value, and ſome few charged very heavily, that had been omitted in the old ſurvey. If we conſider that thoſe, who were employed to execute this commiſſion, were extremely ſolicitous to ingratiate themſelves with the King and his miniſters, we may eaſily account for ſome of the preferments being overcharged. Mr Strype, in his Eccleſiaſtical Memorials (4), has publiſhed a Letter from Biſhop Gardiner of Wincheſter to Secretary Cromwell, which evidently ſhews how ready he and his collegues were to go beyond his Majeſty's inſtructions (5); ſince they challenge a ſhare of merit in not granting to their poor brethren all the allowances which they might claim by the law. Queen Elizabeth's firſt parliament moſt politely aſſured their Sovereign, that "the prelates and clergy "paid the firſt-fruits to her Father for twenty "years without grief or contradiction (6):" the truth of one expreſſion in this high-flown compliment muſt he denied (7); the other word is not ſo queſtionable: as many clergymen, however enormous

(3) Kennet's Parochial Antiquities, p. 316.

(4) Vol. I. p. 212, 213.

(5) The King's inſtructions to the commiſſioners on this ſurvey may be read in Wilkins's Concil. vol. III. p. 799, &c.

(6) Stat. 1 Eliz. c. 4. § 16.

(7) Archbiſhop Whitgift complained that poor miniſters often be too much overcharged in their valuations. Appendix to Strype's Life of that Prelate, N° xxvi. p. 101.

mous the aſſeſsment was, might prudently acquieſce, foreſeeing a litigation would be both expenſive and fruitleſs. But where an incumbent was only rated according to his real income, he muſt have found it very difficult to make good his payments for firſt-fruits within a reaſonable time. And to enable him to be more expeditious, he was entitled by the Stat. of Hen. VIII. c. 11. to all the profits of the living from the day of the avoidance. If I therefore aſſert, that the King's emolument was firſt conſidered in this clauſe, and then the intereſt of the clergy, you will not, I am ſatisfied, accuſe me of drawing a forced concluſion.

From the preceeding account you ſee, Sir, the grounds of this favorable allowance to every new incumbent: and the queſtion is, whether, as in many caſes the reaſon in part only remains, and in a greater number does not at all ſubſiſt, the indulgence ought not to be diſcontinued. It is a circumſtance well known, and a happy one it is for the clergy, that the firſt-fruits of moſt parochial livings are much leſs in proportion to the real profits, than they were ſome years ago. In 1703, when Dr Prideaux firſt publiſhed his Tract, he admitted them to be a 6th or a 7th part (1): Biſhop Burnet, about the ſame time, ſet moſt at a 5th, and ſome at a 10th part (2); and I believe, at preſent, if valued at a 10th, the calculation will generally hold good. This is meant of preferments which are ſtill ſubject to the payment of this tax, for by the 1ſt of Eliz. c. 4. and the 5th

(1) Eccleſiaſtical Tracts, p. 245, 308.

(2) Hiſtory of his own Times, vol. II. p. 369.

5th of Ann c. 24, the much greater number of livings in England are diſcharged (3).

But the benefit of the Act of Henry VIII. is not confined to rectories and vicarages, it extends to all eccleſiaſtical preferments, biſhopricks excepted. As the revenues of Biſhops were by the ſurvey of Henry the Eighth's commiſſioners rated to the utmoſt value for the firſt-fruits; and ſoon after, from cauſes well known, ſunk below that ſum, their Lordſhips ought certainly to have enjoyed the advantage of this clauſe; the temporalities however being inveſted in the crown during the vacancy (4), this Prince took effectual care to have them excluded. Now of twenty-eight principal cathedral and collegiate churches, thirteen only are rated; fourteen were never in charge; and Windſor was diſcharged by act of parliament. Under theſe circumſtances, if we are guided by the declared intention of the legiſlature, more than half the clergy, who ſucceed to vacant benefices, ought not

(3) 5597 livings were diſcharged by the Stat. of Ann, as not exceeding the clear yearly value of £50; and by the Stat. of Eliz. rectories that did not exceed the yearly value of 10 marks, and vicarages that were not above £10 a year, according to the ſurvey of Henry VIII. were exempted from payment of firſt-fruits.

(4) The noble author of the Hiſtory of the Life of K. Hen. II. 8vo edit. vol. III. p. 243 & 248. has proved this to have been a juſtifiable branch of the royal prerogative upon the principles of the feudal law; but acknowledges, with the impartiality that diſtinguiſheth his Lordſhip's writings and his character, that the keeping Biſhoprieks unſupplied, for the ſake of the profits, was culpable. In this practice Q. Eliz. ſurpaſſed all her predeceſſors; for ſhe ſuffered the See of Ely to continue vacant 18 years and a half. Her Majeſty's diſintereſted and laudable motives may be ſeen in Strype's Annals, vol. II. p. 327, 360, 408, 579, 698.

not to aſſume the privilege given them by this Statute; and with reſpect to the reſt, the caſe is ſo materially altered, they ought in equity to forego it. For, beſides the advantage which they receive from the improvement of their livings, they are not under the ſame difficulties in the payment of their firſt-fruits with thoſe, whom the Bill had particularly in view. They are allowed full two years to diſcharge the debt; and if they die before the expiration of that term, the bond given by them remains no longer in force. Whereas till the Statute of 1 Eliz. c. 4. the times of payment were uncertain and arbitrary. The Lord Chancellor, or other officer appointed by the crown, ſettled the articles of compoſition; and, I believe, in caſe of the death of the incumbent, his executors or ſureties were anſwerable for all arrears. By the Act of 26 Henry VIII. c. 3. every perſon before actual poſſeſſion was obliged to pay, or compound, upon good ſureties, for the payment of firſt fruits at reaſonable days; and if a miniſter medled with the profits, before he had complied with theſe rules, he, as alſo his executors and adminiſtrators, forfeited double the value of the firſt-fruits. By the Stat. of 1 Eliz. c. 4. an incumbent is not chargeable with even a fourth part, till he has, or might have, received the profits of the half year from the day of the avoidance.

It will perhaps be ſaid, that though in this inſtance the clergy are eaſed, yet there are other charges, which fall heavy upon new incumbents; ſuch as fees for inſtitution and induction. You will, I hope, do me the juſtice to believe, that I much wiſh to ſee my brethren releaſed from every incumbrance

incumbrance of this kind. But, if we accurately examine theſe fees, we ſhall find no great cauſe of complaint, ſince they have not been much augmented for near 200 years. The expences attending promotions to dignities, and other preferments in the gift of the King, may be excepted; becauſe your correſpondent has heard, (unfortunately for himſelf, he cannot write from experience) that the perquiſites of the great offices have been raiſed, and with reaſon and juſtice, as the value of money has decreaſed (1). Fees, ſtrictly eccleſiaſtical, are thoſe I would be underſtood to mean. Concerning which the late Archbiſhop of Canterbury obſerved, in one of his charges to the clergy of Oxford (2), that they had not been materially increaſed ſince the foundation of that See, A. D. 1542. And as that Biſhoprick was taken out of Lincoln dioceſe, it is very probable that the ſame rule is followed in that extenſive juriſdiction. In this diſtrict of —— the fee for induction in 1530 was 6s. 8d. and the Archdeacon receives at preſent no greater emolument. What the ſum of all the perquiſites paid to the predeceſſors of our Biſhop and his officers were at that time, I am not quite certain (3); but am ſatisfied that the difference is ſmall between that

 ſum

(1) The author will venture to affirm, that no ſuch extravagant preſents are now expected, as the ſucceſsful candidates for benefices in the patronage of the crown were conſtrained to make in the reign of Queen Elizabeth. When Biſhop Fletcher was tranſlated to the See of London he paid, for the moſt part, by her Majeſty's direction, in allowances and gratifications to her attendants, £3100. Can we wonder that he ſhould leave his family in diſtreſs, and humble petitioners to the Queen for relief. Dr Birch's Memoirs of Eliz. v. II. p. 113.

(2) Archbiſhop Secker's Charges, p. 116.

(3) In 1473, the Biſhop's fee for inſtitution in the dioceſe of —— was Xs. it is now £1 1s 0d.

ſum and what is now demanded, by comparing them with a table in the conſiſtory court of Cheſter (1), ſettled in 1582. In that dioceſe the fees then aroſe to £4; and our clergy pay only £5 11s 6d, ſingle ſtamps included.

The profeſſed reaſon no longer remaining for which the clauſe of the Stat. of Henry VIII. was enacted, why ſhould not the clergy be relieved from the partial and inequitable effects of it? Some may urge, that other motives no leſs weighty, which are not expreſſed, might determine the judgments of the members of the legiſlature in this point—that particularly, as the ſucceſſor was, they knew, compellable to bear all burdens, and defray all expences, they might think it right to ſecure to him all the growing profits.

Was the income of benefices certain and uniform, the juſtice of this rule muſt be admitted; but, in the preſent ſtate of them, a ſtrict adherence to it will unavoidably oppreſs the families of the country clergy. I inſtance in theſe, becauſe they are more affected by the Bill under examination, and are far more numerous than the dignitaries, added to our brethren, who are intruſted with the care of town pariſhes. Let us then, if you pleaſe, conſider the nature of the revenues of perſons in our ſtation. They may, I think, be compriſed under the denominations of tythes, penſions, Eaſter-offerings, what are uſually termed ſurplice-fees, and glebe land.

It

(1) Chancellor Gaſtrell's Enquiry into the exerciſe of ſome parts of eccleſiaſtical jurisdiction, 1707, p. 13.

It will not be denied that, in moſt pariſhes, the four laſt articles bear a very inconſiderable proportion to the firſt. And of the ſeveral ſpecies of tythes, corn, where the livings have eſcaped an impropriation (that baneful legacy of the popes and avaricious monks to the Church of England before their departure) and in vicarages, hay, fruit, and hops are the moſt valuable. In thoſe few places, where there is a large quantity of woodland, and the wood is titheable, the difference will not be ſo great. But theſe profits accrue only in the latter end of June and the three following months: So that if an incumbent dies before this ſeaſon of his temporal harveſt, he has but a ſmall compenſation for his labours during the greater part of the year.

There are likewiſe ſome additional hardſhips. His tythes are ſubject to the land tax, to aſſeſſments for the relief of the poor, and the repair of highways; and, frequently to penſions to his dioceſan, or a collegiate body, with procurations and ſynodals. The firſt of theſe articles has been, ſtill is, and may poſſibly continue at three ſhillings in the pound; in moſt diſtricts the ſecond exceeds that proportion; and they muſt all be paid to the hour of the death of the incumbent; though, as the law now ſtands, the greateſt part of the revenue for which he is charged, becomes from that time the property of another.

From a ſenſe of the certain and heavy expences to which landed eſtates are liable, the parliament, a few years ago, ſhewed a particular regard to tenants for life. For the Statute of the 11th of

the late King, c. 19. gives their executors a title to the proportion of the annual rent to the time of their deceaſe. It is generally agreed that this indulgence was not deſigned to extend to the clergy. But, whatever was the intention of the legiſlature, there are ſome expreſſions in the bill, which they may plead in their favour. And this partial benefit makes it ſtill more requiſite that their caſe ſhould be further conſidered: Since ſeveral reap the advantage, who, in one reſpect, are leaſt deſerving of it, and others, who moſt want it, are deprived of it.

This aſſertion is founded on an opinion of Dr Burn, who is ſeldom miſtaken in a point of law. And if his comment on this Act is juſt, "Tythes, "demiſed by written leaſes, are included in the "words of it; and as modus's, in lieu of tythes, "are not within the purview of this ſtatute, a new "incumbent is intitled to the whole of the modus, "if his predeceſſor dies before the day of pay-"ment, even though the compoſition be for "tythes, that, taken in kind, would have been "due in his life time(1.)" We poor vicars are chiefly affected by this laſt circumſtance, on many of whoſe livings, by the intereſted contrivances of thoſe who endowed us, modus's are immoveably fixed(2). And, as to the other article, the executor of an indolent leſſor of his revenue has the advantage; while the repreſentatives of a clergyman, who, by keeping his tythes in his own hands, is the beſt truſtee of his preferment, ſuffer extremely

(1) Burn's Eccleſ. Law, under title Vacation, 8vo. vol. IV. p. 5.

(2) Kennet's Caſe of Impropriations, p. 59.

ly for the commendable care of their active friend. Some have imagined that no clergyman, as to his eccleſiaſtical profits, can claim any benefit from this Statute of GEO. II. ſince no clauſe of it revokes that of the 28th of HEN. VIII; but their opinion is ſurely erroneous; it being an incontrovertible rule of law, that a ſubſequent act of parliament virtually repeals a former act in every inſtance, where they are contrary to each other.

It may, however, be proper to conſider the other articles of the income of a country miniſter; becauſe a diminution of ſome of them, and an alteration in the value of the reſt, ſince the reign of Henry VIII. will furniſh us with a ſtrong argument for a review of this Statute. There being, in general, a very ſmall quantity of glebe-land annexed to our livings, I ſhould have taken no notice of it, only I was willing to obſerve, that the law is more favorable in this inſtance, than in others, to the relations of clergymen; as it allows them to receive the fruits of the expences of the perſons whoſe property they inherit (3) —Penſions, offerings, and ſurplice-fees are the remaining branches. The firſt conſiſt of the ſame ſums, as were fixed by the original foundation, or endowment, or an augmentation of ancient date; and the rectors and vicars of moſt places might receive them at the different quarters of the year. Oblations (4), formerly made at the three great feſtivals, and on the day of the dedication of each church, are reduced to one offering at Eaſter.

 This

(3) 28 Henry VIII. c. 11. § 9.

(4) See the Gloſſary to Kennet's Par. Antiq. under the title Oblationes Altaris.

This may, in a few pariſhes, riſe as high as 6d(1), but it is more frequently ſunk as low as 2d. It was, and is due from every perſon of a proper age to partake of the holy communion; and as, heretofore, moſt people regularly performed this neceſſary part of chriſtian worſhip, the payment of the offerings was ſeldom neglected. At preſent, it is not without ſome difficulty we can recover them from the Maſter and Miſtreſs of a family.

The explanation of the words ſurplice-fees, viz. that they muſt be of ſo long time as to create a preſcription, is ſufficient to ſhew that they were not capable of much improvement. And, in fact, we find that in a courſe of two hundred years, they have had, if any, a very inconſiderable increaſe. The late reverend Mr Lewis has inſerted in his Hiſtory of Thanet the following table of fees payable to the vicar of St John's pariſh in that iſland, A. D. 1577 (2).

	s	d
For marriage and banes - - - - - - - -	03	: 6
For burial in a ſheet only - - - - - - -	00	: 6
With a coffin - - - - - - - - - - - -	01	: 0
Yf the corps be brought into the church	02	: 0
For churching a woman, but muſt compound for the face-cloth - -	01	: 0
And the poorer ſort only - - - - - - -	00	: 9
Eaſter offering per pole - - - - - - - -	00	: 6

At

(1) Archbiſhop Whitgift complained that, in his time, the oblations were in many places brought down to 2d for a whole houſe. Appendix to his Life by Strype, N° xxvi. p. 100.

(2) Page 145.

At this day, in ſome pariſhes, the fee for a wedding with publication of banns is 3s 6d, and no miniſter, I believe, receives more than ſix ſhillings. I am paid in my pariſh only two ſhillings for a burial, and for churching a woman and regiſtring the child one ſhilling and ſixpence.

I muſt likewiſe remind you that a parochial clergyman had, in the reign of Hen. VIII. many emoluments, which are now entirely loſt. The wiſe and neceſſary ſuppreſſion of obits, maſſes, and numberleſs ſuperſtitious ceremonies, and ſolemn farces of the Romiſh church, deprived them of many lucrative perquiſites.—Beſides; perſonal tythes, which were to be accounted for at Eaſter, are now no more.—Few incumbents, from the indolence and careleſsneſs of their predeceſſors, can legally demand mortuaries (3).—And a practice, which prevailed much in former times, is out of faſhion; viz. that of a pariſhioner's bequeathing a legacy to his paſtor for dues neglected, or forgotten to be paid (4). I have been very circumſtantial in my detail of theſe articles, to aſcertain the

(3) It is evident from the viſitation acts of the dioceſe of ———, that mortuaries were claimed and allowed in many pariſhes, but there is not at preſent one clergyman in the whole diſtrict, who receives them.

(4) See Somner's Antiquities of Canterbury. p. 171. as alſo Lewis's Antiquities of Feverſham, p. 62. Mortuaries were partly eſtabliſhed for the better ſecurity of a ſatisfaction for the omiſſion of tythes and dues See Wilkins's Concil. v. I. p. 718. v. II. p. 66, 158, 279. The author was once told of a perſon who, from a conſciouſneſs of having defrauded the public by ſmuggling, left to the treaſury an expiatory bequeſt; but he never heard or read, of one modern inſtance of a countryman's being ſo far touched with remorſe for withholding his miniſter's dues, as to remember him in his will.

truth of the following remark, that, even on a ſuppoſition we ſhould grant this bill not to have been extremely partial at the time of its commencement, yet, from a variety of cauſes, it may be now moſt injurious and oppreſſive. For as theſe ſeveral dues had a much greater proportion to the tythes than they have at preſent, and were received on different parts of the year, an incumbent, who died a little before harveſt, was not equally aggrieved. They are now trivial ſums, but we muſt conſider the decreaſe in the value of money; and that they would at the time of which I am writing purchaſe many of the neceſſaries of life. The noble Lord, who now preſides in the court of king's bench, admitted, in his learned and equitable deciſion of the cauſe of Sir John Trelawney againſt the late Biſhop of Wincheſter, that a fee of two ſhillings in the firſt of Elizabeth would now amount to twenty ſhillings (1).

If you weigh with impartiality the reaſons here offered for an amendment of the bill in queſtion, you muſt be ſurprized to find that no relief has been given to thoſe, who for many years have ſuffered by it. A faint attempt was made at the beginning of this century to effect an alteration, by ſecuring a proportionable ſhare of the annual profits of livings to the executors of incumbents according to the time of their poſſeſſion: but the ſcheme was unfortunately dropped almoſt as ſoon as propoſed: and the want of ſucceſs was attributed to Dr Prideaux, his pamphlet being then firſt publiſhed in vindication of the preſent law. I have already

(1) Burn's Eccleſ. Law, under title Leaſes, 8vo. v. II. p. 330. See alſo Biſhop Fleetwood's Chronicon Precioſum.

already declared my ſentiments of this tract, and am firmly perſuaded that there muſt have been other more weighty, though ſecret, reaſons, than what he has offered, which defeated the well meant endeavours of ſome true friends to the parochial clergy. For the arguments, which he frequently urges againſt the repeal of a clauſe ſo beneficial to the ſucceſſor, hold much ſtronger for a diſcontinuance of it in favor of the family of the predeceſſor, "that the end of the endowment of a church is "for the ſupport of God's worſhip in it; and "that the profits ſhould accrue to him, on whom "the ſervices and burden fall (2):" if theſe poſitions are juſt, every equitable man muſt grant, that the perſon who has performed the duty, and ſupported the incumbrances for ten, perhaps eleven months, has a prior right to him, who cannot be charged with them for the ſame number of weeks.

Dr Prideaux has laboured to prove that, by the canon law, the eccleſiaſtical year commenced on the 25th of March, and that the tythes and other dues were for the ſupply of the cure of the reſpective pariſhes to the ſame day in the following year (3). The deciſion of this point is not material, ſince the main queſtion is, whether, by the laws in force, a man may not, for the ſervice of one or two months, receive the moſt valuable profits of a preferment, and the miniſter, who has born the burden the reſt of the year, have a ſlender recompence. I have ſhewn that this queſtion muſt be anſwered in the affirmative: and will add, that one party or the other, muſt moſt probably be

(2) Dr Prideaux's Eccleſ. Tracts, p. 238, 240, &c,
(3) Id. p. 241, 243.

be a ſufferer. If the predeceſſor dies before harveſt, he loſes, if immediately after, his family receives the fruits of it: and ſhould the ſucceſſor be removed in an earlier month, and the chances are greatly againſt him, he will officiate for that part of the year without his due reward. Whereas by appropriating to each according to the time of poſſeſſion, each perſon is paid for his labor. The Dean of Norwich has indeed informed us, that the predeceſſor is not injured by this act, ſince he knew the condition of the tenure with which he was to hold his preferment; and that, as there was an advantageous and diſadvantageous lot between him and his ſucceſſor, whether he died before or after harveſt, each in reaſon ſhould be contented, happen which will(1). But why ought a hazard to be permitted in a caſe of ſo great conſequence, on which the maintenance of many perſons depends, when a fair and regular method of diviſion may be with eaſe adopted?

Dr Prideaux further objected to an alteration of this Statute, becauſe he was apprehenſive it might occaſion almoſt as many applications to the courts of Weſtminſter-hall, as there would be avoidances; the conſequences of which diſputes, he thought, would be a notoriety upon record of the real value of preferments, that might ſubject the clergy to a payment for their firſt fruits according to their preſent improvements(2). The fear of many legal conteſts was groundleſs, whether the act was, or was not, amended; for the finances of families of deceaſed miniſters will rarely enable them to defray

(1) Dr Prideaux's Eccleſ. Tracts, p. 239, 240.
(2) Id. p. 257.

fray the expences of ſuits at law. And ſurely, the alteration of this act would leſſen, if not put an end to the differences, which too frequently ariſe between the ſucceſſor and the repreſentatives of the laſt imcumbent. In pariſhes, where the tythes are taken in kind, and much leſs when each farmer is the tenant of his own tythes, is it practicable to determine how many ſheaves of corn, or cocks of hay, were ſevered from the ground; or how many buſhels of fruit or hops were gathered at the time of the vacancy? And if we conſider the various articles of which the privy tythes conſiſt, one may venture to pronounce that it is impoſſible to aſſign to the claimants their reſpective legal dues. But, when the neat profits of the year are caſt into one ſum, any perſon, who knows the firſt rules of arithmetic, will in a few minutes ſettle the proportions according to the time of the incumbency. You, Sir, have ſeen the advantage of this method of diviſion in a ſmall diſtrict, where the clergy have agreed to obſerve it; and I have heard that the clergy of the dioceſe of Exeter, convinced of the equity of it, endeavour to make it a general rule: and have no good opinion of any brother who propoſes a deviation from it. The other difficulty then raiſed by Dr Prideaux muſt fall of courſe; and he, I believe, was ſenſible little attention ought to be paid to it: ſince in the concluſion of his tract, where he offered a ſcheme for the maintenance of clergymens widows, he adviſed to have it done by an equal rate on all eccleſiaſtical benefices; which could not be levied without a new valuation (3). In truth, it was, at that time, an objection more ſpecious than ſolid, and is now frivolous:

(3) Dr Prideaux's Eccleſ. Tracts, p. 272.

volous: for, as livings were always ſubject to aſſeſsments of different kinds; were often demiſed to neighbouring farmers, or conſigned to creditors for the payment of debts; and muſt have been in the hands of ſequeſtrators upon every vacancy, the annual profits could not be concealed. At preſent the perpetuity of firſt-fruits and tenths is granted to the clergy; and, by 1 Geo. Stat. 2. c. 10. § 1. Biſhops are empowered and required from time to time to inform themſelves of the improved value of every benefice with cure of ſouls, and to certify the ſame to the Governors of Q. Anne's bounty.

Since our firſt converſation I have, Sir, made it my buſineſs to diſcover the ſentiments of many of the laity, as well as of our brethren, on this ſubject, and do aſſure you that all the former, and thoſe of the latter, who were diſintereſted, judged the preſent law to be very ſevere. Thoſe, indeed, who, influenced by a proſpect of immediate advantage, were unwilling to hear of an amendment or relaxation of it, aſſigned a reaſon for their diſinclination that will not be eaſily admitted. Their plea was, in former inſtances they had, to their detriment, been obliged to ſubmit to this clauſe of the Statute, and they thought it very fair to reimburſe their loſſes, when a favorable opportunity offered. What is this but to maintain, that becauſe one man hath dealt rigorouſly by me, it is allowable for me to act in the ſame harſh manner by another; in direct violation of that golden rule of equity, which requires us to do as *we would be*, and not as we *have been done* by.

Having

Having cenſured with ſome freedom the tract of a Gentleman, who was an ornament to our profeſſion, I ought not, in juſtice to his memory, to conceal what ſeems principally to have occaſioned his virulent oppoſition to an alteration of this Act of Henry VIII. viz. a dread of promoting and encouraging Simoniacal contracts. An endeavour to ſtop the progreſs of this epidemical diſeaſe was very laudable: though it is not clear to me, that there was more danger of a patron's obliging a clerk, whom he intended to prefer, previouſly to engage he would make an allowance to the family of his predeceſſor out of the fruits of the following harveſt, under the ſcheme propoſed, than while the act continued in its preſent form. I am rather inclined to believe that the reverſe would moſt likely happen. For if a proportionate diviſion of the profits was the rule obſerved, the repreſentatives of the laſt incumbent would be leſs objects of compaſſion than they now are. From the warm expreſſions uſed by the learned Dean, it is moſt probable he had received frequent intimations of patrons inſiſting on bonds or promiſes for the purpoſes here mentioned (1): a practice, without diſpute, unjuſtifiable: however, many perſons will perhaps ſuggeſt, that a clergyman little merits a valuable piece of preferment, who ſhould want an intimation, that he ought not to plead the benefit of a rigorous ſtatute to the prejudice of a diſtreſſed widow and her children.

But, whatever grounds there might have been for Dr Prideaux's ſuſpicions and fears, the cauſe of them is removed. The public papers by every poſt

(1) Dr Prideaux's Eccleſ. Tracts, p. 261—267.

poſt will ſatisfy us, that too many patrons in theſe days conſult their own profit, and not the intereſt of the friends of deceaſed clergymen, in the execution of their truſt. When livings are advertiſed to be ſold upon an immediate reſignation, or a proſpect of the ſpeedy death of ſick or aged incumbents, can we doubt whether theſe preferment-brokers calculate exactly what quantity of tythe is likely to remain not ſevered from the ground at the time of the vacancy, and expect an adequate price for the chance? This abuſe of the indulgence given by the act is of itſelf a ſufficient reaſon for an alteration.

The rule formerly obſerved by ſome Biſhops, and at different times by the legiſlative power, in fixing the revenue of town livings, will furniſh another argument for the amendment propoſed. I have before remarked that the clergy, who have the care of populous pariſhes, are leſs injured by this Statute of Henry VIII. than their brethren who reſide in the country. My reaſons were, that the ſurplice fees, which are continually ariſing, are of much greater value, when compared with the other branches of their income; and that the remaining profits frequently iſſue from an aſſeſſment on houſes, payable at different times of the year. The following inſtances have come to my knowledge, and I doubt not of there being a very great number more. Mr Somner, in his Antiquities of Canterbury, takes notice, that the payments to the clergy of that city according to the rents of houſes is quarterly (1). A friend, who was preferred in the neighbourhood of Rocheſter, once

(1) Page 171.

once informed me that he believed the ſame rule was obſerved in that place (2). A pound rate, due at the four quarters of the year, is aſſeſſed upon the inhabitants of Coventry (3), Ipſwich (4), and Northampton (5), by particular Acts of parliament. In ſome of, I believe in all, the new eſtabliſhed pariſhes in and near the metropolis, where it was thought neceſſary to levy money on the tenants of houſes for the ſupport of the Rectors, it is to be paid quarterly. And we know that in the ſeveral pariſhes of the city of London, in which after the dreadful fire, A. D. 1666, the income of the miniſters was ſettled by Stat. 22 & 23 of Ch. II. c. 15 (6), they are entitled to it by quarterly payments. The method purſued by theſe ſeveral Acts to ſecure to each clergyman who diſcharges the duty his juſt ſhare of the profits, may encourage us to hope for ſucceſs, ſhould an application be made to the legiſlature for mitigating the ſeverity of the Act of Henry VIII.

In the frequent uſe of the epithets partial and ſevere, I would not willingly tranſgreſs the bounds of

(2) This ſeems very probable as the Biſhop of Rocheſter was formerly more dependent upon the See of Canterbury, than any other prelate. He was called *Ejus eccliſiæ proprius et domeſticus.* Eadmeri Hiſt. p. 101.

(3) Stat. 4 Phil. & Mary.

(4) Stat. 13 of Eliz.

(5) In the pariſh of All Saints in Northampton by Act of parliament in 1677. Brydges's Hiſt. of Northampt. p. 442.

(6) In this Act no conſideration is ſhewn to ſucceſſors in London livings *towards the payment of firſt-fruits*, though they riſe higher in proportion to the real value than in any other parochial benefices. The annual income of St Magnus, and St Margaret New Fiſh-ſtreet, is £170, and the charge for firſt-fruits amounts £100 : 17 : 1.

of reſpect due to a law in force. I am ſenſible that it becomes every member of a community to be wary in his deciſions upon an Act of its legiſlative authority: but having ſhewn, I truſt, ſatisfactorily the unreaſonableneſs of the Bill in queſtion, I perſuade myſelf I ſhall not be cenſured for ſetting it in its true light.

The divine precepts alone are exempt from error. Human inſtitutions ever did, and ever will, partake of the paſſions and prejudices of thoſe who frame them, and of the cuſtoms of the age when they are ratified. It ſhall be acknowledged, and with gratitude, that the ſyſtem of laws, to which our obedience is required, is mild and rational; and in general well adapted to promote the happineſs of individuals, as well as the public proſperity. Political enthuſiaſts alone will aſſert the perfection of them, and we have reaſon to rejoice that they are not, like the decrees of eaſtern tyrants, irrevocable. If we examine the numerous Acts of Parliament which ſwell our Statute books, we ſhall perhaps find few, that more require an alteration, than thoſe which paſſed in the reign of Hen. VIII. the parliaments called by that King were either ignorant of the invaluable conſtitutional rights veſted in them, or, on account of the unſettled ſtate of public affairs at that time, waved the exertion of them. Thus far is certain; they were not actuated by that ſpirit of freedom and independency, ſo glorioufly and happily diſplayed on many occaſions by their patriotic ſucceſſors. Hen. conſidered them as mere inſtruments of his will; and they were too apt to confirm him in the mean opinion he entertained of them, by a paſſive, unlimited

limited ſubmiſſion to his pleaſure; without weighing the motives and conſequences of what he demanded. You, Sir, who are converſant in this period of our hiſtory, will allow the truth of theſe remarks: and if a juſt repreſentation is here given, a perſon merits ſome excuſe, who treats with decent freedom Statutes, which paſſed while Henry the Eighth ſwayed the Engliſh ſceptre: becauſe he may be only complaining of the edicts of a capricious and arbitrary monarch.

From a Prince of his impetuous temper, and rapacious diſpoſition, impartial and equitable laws were not to be expected; and, conſidering the prejudices he had imbibed in his early years, and which were ſtrengthned by the ſuperſtitions of the age, we muſt not wonder, if we do not find them diſtinguiſhed for their wiſdom. Few, probably, of our countrymen ſuffered more unjuſtly from his ſevere decrees, than thoſe of our profeſſion. I except the monks and bigotted prieſts, who, as they were continually exciting ſeditious tumults in ſupport of the ſupremacy of a foreign potentate, deſerved their puniſhment: but what Lord Lyttleton (1) obſerves of King Stephen, holds equally true of Henry; "that he did enough to make the "clergy his enemies, but not enough to make "them his ſubjects:" for he would have certainly found a very numerous party of them zealouſly loyal in their attachment to him, had he not reſtrained them from marrying, and even made it a capital offence for them to enjoy a natural right of mankind (2). The authority of Archbiſhop

(1) Hiſt. of Hen. II. 8vo. vol. I. p. 314.
(2) Stat. 31 Hen. VIII. c. 14.

Cranmer will juſtify me in attributing this cruel law to Henry VIII. ſolely: that excellent prelate having informed us "that it appeared to the par-"liament ſo contrary to truth and common judg-"ment, that they were averſe to the paſſing of "it; and would not have conſented, had they "not been awed by the preſence of the King, "who, they ſaw, was peremptory it ſhould be "made an act of the legiſlature(1)."

It ſeems to be no forced conjecture from Henry's fixed averſion to the marriage of eccleſiaſtics, that by the ſtatute, which gave all future profits to ſucceſſors in benefices, he might intend to check, if he could not prevent, a practice which was common at that time. And indeed, an apprehenſion of poverty is a probable cure, though not a ſpecific remedy, of the paſſion of love: for a prudent and thoughtful man will not be very forward to engage in a nuptial alliance, if he were ſure of leaving the offspring of it deſtitute. I have already ſhewn that Henry's principal view in procuring this bill was to obtain a ſpeedy payment of firſt fruits; and by the method adopted a new incumbent was eventually benefited: however I cannot but ſuſpect, that he might likewiſe intend to cut off a reſource for the maintenance of the wives and children of clergymen after the death of their friends(2). In ſupport of this conjecture it may be obſerved, that when this Prince, whoſe tender

(1) See Strype's Life of that Prelate, Appen. N° XL. p. 92.

(2) Sir Walter Raleigh ſays of Henry VIII.—"That if all "the pictures of a mercileſs Prince were loſt in the world, they "might all again be painted to the life in the ſtory of this "King.—He heaped ſorrows on the fatherleſs and widows." Preface to his Hiſtory of the World.

tender mercies were cruel, was pleaſed to relax the *very ſore* and *too much extreme* (3) rigor of what was properly termed the bloody act, he changed the puniſhment from death to a pecuniary mulct. The Penalty by the 32 Hen. VIII. c. 10. for the firſt offence to a married clerk was to be the loſs of goods and chattels, and the profits of every eccleſiaſtical benefice, ſave one; and if he was afterwards convicted of living with his wife, he was to forfeit the iſſues of all his lands and promotions. By the former of theſe laws the wives of clergymen were to ſuffer the ſame puniſhment as their huſbands; and by the latter on a ſingle conviction they were to be impriſoned for life (4). But be my ſurmiſe chimerical or well founded, the conſideration that the law was enacted, when the members of our order were under a reſtraint

(3) Expreſſions uſed in the preamble to the Statute of 32 Hen. VIII. c. 10.

(4) In both theſe Statutes the penalties were more ſevere againſt married clerks and their wives, than againſt prieſts and their concubines. Thus ignorant was Henry, his council, and ſome of his divines, of the precepts of chriſtianity, as to think fornication a little ſin, and marriage a great one. John Skelton, an eccleſiaſtic, as alſo Poet Laureat to this Prince, honeſtly owned to a friend, who reproached him for keeping a miſtreſs, that he in his conſcience eſteemed her to be his wife, though for the foregoing reaſon, he was afraid to declare it publicly. Atlas Geo. Mag. Brit. vol. III. p. 305. A Divine, however, of Sir Thomas More's acquaintance was of opinion, that it was leſs criminal to have ten whores abroad than one wife, (or, as they termed it, a concubine) in his houſe. *Theologus aſſerebat concluſionem famoſam cujuſdam limpidiſſimi Doctoris plus eum peccare qui unam domi concubinam, quam qui decem foras meretrices haberet; idque cum ob malum examplum, tum ob occaſionem ſæpius peccandi cum ea quæ domi ſit.* (Tho. Mori Apologia pro Eraſmo.)

of celibacy is a good reaſon for an amendment of it; and that under ſuch a change of circumſtances this clauſe ſhould remain in force, is another of the grievances of which we juſtly complain.

While the clergy were unmarried, their wants were comparatively ſmall; and ſlender as the profits were which daily accrued from preferments, they might ſupport the ordinary expences of a ſingle man. But, upon being reſtored to the invaluable privilege of having a family, the maintenance of that family is unavoidably attended with ſuch an increaſe of expence, as the whole year's income of moſt of the livings in England will not defray. How great therefore muſt be the embarraſsment to receive not more than a tenth part for the ſervice of ten months. We may likewiſe obſerve that it was, comparatively ſpeaking, of little conſequence to a bachelor, whether at the cloſe of life, he was poſſeſſed of more than was neceſſary to pay his debts and funeral expences. But the views of a married man will, and ought, to extend further. He muſt be ſolicitous to leave a little matter for the ſupport of thoſe who are deſerving objects of his affection; and if you deprive them of almoſt a year's income of a benefice, you muſt greatly diſtreſs them.

Theſe were, probably, the reaſons why Biſhop Burnet, that exemplary prelate, and zealous promoter of the intereſts of the parochial clergy, earneſtly preſſed an amendment of this act (1). And the

(1) Biograph. Britan. under the article Prideaux, note Y. "The inferior clergy are under great obligations to Biſhop Burnet, as

the ſame compaſſionate and generous motives prompted Biſhop Gibſon to expreſs a wiſh, that a clauſe had been added to a Bill paſſed in the 12th of Q. Anne, to enſure an equitable conſideration for ſerving the cure of pariſhes to the wives and children of ſuch incumbents, who died a little before harveſt(2). The learned and judicious Dr Burn has not, to the beſt of my remembrance, tranſcribed this remark from the codex into his uſeful compilation of eccleſiaſtical law; and it is an omiſſion for which I cannot account; becauſe by a ſtricture on another clauſe of this ſtatute of Henry VIII. he was certainly apprized of the force of it. The clauſe I mean, is what entitles a ſucceſſor to the poſſeſſion of the manſion houſe after a month's notice(3). Upon which the Doctor very juſtly obſerves, "that the limitation of time "might be well enough in thoſe days, when the "clergy was not allowed to marry, but now for "the widows and children, which they frequently "leave behind them, this time ſeemeth to be too "ſhort(4)." Now, in my humble opinion,

 that

as he was the original propoſer of the plan for augmenting ſmall livings, by an alienation from the crown of firſt-fruits and tenths. His Lordſhip had likewiſe formed a ſcheme to improve the income of miniſters of town pariſhes within his dioceſe. by a temporary union of the prebends in his church of Saliſbury. In this he was defeated by Biſhop Stillingfleet, who attempted to ſhew that the bonds of reſignation, under which they were to be holden, were Simoniacal and illegal, though he admitted the thing to be done was for a very good end. Stillingfleet Miſcell. Diſc. p. 37. Burnet's Hiſt. of his own Times, v. II. p. 370.

(2) Gibſon Codex Juris Eccleſ. p. 788. note S.

(3) Stat. 28 Hen. VIII. c. 2. § 9.

(4) Burn's Eccleſ. Law, under title Benefice, 8vo. vol. I. p. 157.

that part of the act, which relates to the ſubſequent profits, requires an alteration more than this, which obliges the family to quit the houſe ſo ſpeedily. For ſhould the new incumbent, regardleſs of the difficulties to which he may ſubject the family of his predeceſſor, ſtudy his own convenience alone, the forms of law will permit them to keep poſſeſſion for a ſufficient term; whereas they can have no redreſs, if the ſucceſſor is determined to ſeize to his uſe all the ſubſequent profits.

To the reaſons therefore, which have been offered for an amendment of this Bill from principles of juſtice and equity, may be added a plea of charity to perſons who much need it. And, conſidered in this view, one could ſcarcely have imagined that a gentleman of our profeſſion ſhould have zealouſly endeavoured to fruſtrate a ſcheme propoſed for their relief. But Dr Prideaux did prevent it, and a declared motive of his oppoſition was, that he thought the ſucceſſor more worthy of compaſſion, than the family of the old incumbent(1). There are not, I hope, many, who will ſubſcribe to his ſentiments; however, as he laid great ſtreſs upon this point, I will ſtate in few words the different circumſtances of the claimants.

Beſides the ſums to be paid for fees of inſtitution and induction, *&c.* with the compoſition for firſt fruits, which have been fully examined; the Dean of Norwich urged in behalf of the ſucceſſor, the great expences of his education already incurred, and what muſt enſue, on his beginning the world, for

(1) Dr Prideaux's Eccleſ. Tracts, p. 226, 227.

for fitting up and furniſhing his houſe and various other articles. But ſurely the family of the predeceſſor is ſo far from being exempted from as many burdens, that they fall heavier upon them, and at a time, when they are leaſt able to bear them. We muſt remember that an habitation is appropriated for the uſe of the former, and if the charges of his ſettling on his new preferment riſe high, the profits of it are likewiſe riſing to him. As his income will be daily increaſing, he has a proſpect of reimburſing his expences, and of freeing himſelf from his incumbrances. But can a more melancholy ſcene be preſented to us, than that of the widow and children of a clergyman, when firſt deprived of him, on whom their viſible maintenance depended. They muſt precipitately leave their long accuſtomed home. The care and charge of, not only ſubſiſting, but of inſtructing and training, very frequently, a young and numerous offspring devolves upon the diſconſolate and deſtitute mother. And when qualified, they muſt be placed in a reputable way of acquiring a livelihood by their own induſtry. To enable the poor woman to execute this truſt, ſhe muſt embark in new engagements, which require no ſmall ſum of money. But how, and in what manner, is ſhe to be furniſhed? what fund is there to anſwer theſe exigencies? It may be well, if the expected income of the year is not anticipated, and debts contracted without the leaſt imputation of extravagance or want of oeconomy. The laſt ſtage of life is, to moſt people, attended with heavy charges; and if the poor man was long diſabled by ſickneſs, or the infirmities of age, from doing his duty, the

expences muſt be conſiderably augmented by an allowance to an aſſiſtant. For though the incumbent has no right to the profits of the living, he muſt pay a perſon to officiate for him. However, ſuppoſing his widow not to be left extremely neceſſitous, yet when the huſband died, his income departed with him. The ſpring to her is almoſt exhauſted; how cruel then muſt it be, at that trying ſeaſon, to drain from her a few drops of what would have been a comfortable ſupply if the partner of her cares had been only ſpared a few weeks, perhaps days.

The time of the commencement of the act of uniformity was thought to be ill-judged and ſevere, ſince, from that circumſtance, the ſequeſtred miniſters loſt a great part of the profits of the year for which they had ſerved the cures(1). And Archbiſhop Parker very juſtly reproached the commiſſioners under the bloody Queen Mary, for removing married clergymen from their preferments, not ten days before their half yearly payments became due, and after they had diſcharged their tenths and ſubſidies(2) By this ſtatute of Henry the Eighth there is a continual repetition of ſimilar grievances. That law adds weight to the misfortunes of her, who, by the diſpenſation of providence, is preſſed with one of the ſoreſt calamities that can fall on her: whoſe diſtreſſed condition implores, and commands compaſſion and beneficence; and not a deprivation of

Solatia luctus
Exigua ingentis, miſero ſed debita patri.
Virg. Æn. Lib. XI.

(1) Burnet's Hiſt. of his own Times, vol. I. p. 184. 185.
(2) Strype's Memorials of Archbiſhop Cranmer, p. 310.

Our brethren of a neighbouring nation enjoy in this caſe an advantage which we have not. The ſtipends of the clergy of the church of Scotland are payable on Whitſunday and at Michaelmas: and to guard againſt preſent diſtreſs, which a family muſt ſuffer, if the head of it dies before his allowance becomes due; they have a right, by a ſpecial law, to half a year's rent of the ſtipend, beſides what the deceaſed was to receive for the time of his incumbency. This gratuity is called an annat, and is to be equally divided between the relict and her children; and if he have neither, it is to be applied to the maintenance of the neareſt relations: it being preſumed that miniſters have not much to leave (3).

I am not ignorant that among the numerous charitable inſtitutions, which reflect the greateſt honor and luſtre upon this nation, the families of the clergy have often experienced, and do ſtill enjoy, a large portion of the liberal gifts of well diſpoſed perſons. But before we can with propriety ſolicit contributions for them, ought they not to receive what is in ſtrict juſtice due to them; what their departed friend had earned by his labors, and what he had even purchaſed by the payment of taxes and aſſeſſments? If we withhold this from them, we caſt them too ſoon upon the charitable liſt, and injuriouſly deprive others of the donation which they receive. Concerned am I to mention the neceſſity there ſeems to be at preſent for a ſpeedy alteration: ſince, from different cauſes, the collection annually made in London to bind out the ſons

(3) See a Pamphlet, intitled, An Account of the Government of the Church of Scotland, Lond. 4to. 1708, p. 5.

ſons and daughters of poor clergymen apprentices, has gradually diminiſhed (1). Should an amendment be adopted with reſpect to the future profits of livings, there will be ſecured to the repreſentatives of many deceaſed incumbents, as large a ſum as is requiſite to place out one child.

It were indeed to be wiſhed, either that the income of the parochial clergy might receive ſuch an addition, as would enable them to make a competent proviſion for their families; or that a permanent fund was eſtabliſhed and appropriated for the ſupport of thoſe, whom, from the ſcantineſs of their revenues, they cannot avoid leaving in diſtreſſed circumſtances. Many, and, I fear, inſuperable, difficulties now prevent an effectual improvement of their livings. The bounty truly princely of Queen Anne, who, in giving to the poorer clergy the firſt-fruits and tenths of all eccleſiaſtical preferments, far exceeded the beneficence of all her royal predeceſſors, will not in two hundred years raiſe all the livings, already certified capable of an augmentation from it, to fifty pounds a year (2).

There

(1) The collection had not been ſo ſmall for twenty-eight years, as it was at the laſt meeting. In 1740, the ſums received on the rehearſal and feaſt days amounted to £784 1 6; in 1769, to £794 3 0. They have never within this period been under eight hundred, have frequently ariſen to upwards of one thouſand, and almoſt as often to more than eleven hundred pounds. By the death of the late Mr Sampſon Gideon this laudable charity was deprived of a kind benefactor; he having for many years preſented it with a bank note of £100. May thoſe, whom GOD has bleſſed with affluence, follow the example of this generous Samaritan.

(2) Burn's Eccleſ. Law, under title Firſt fruits, 8vo. v. II. p. 248.

There *was* a time, when the evil might have been redreſſed without affecting the property of an individual; and it will remain an indelible blot on the characters of thoſe voracious courtiers, who miſſed the opportunity of reſtoring to miniſters of pariſhes the tythes, which the monkiſh orders had inſidiouſly or compulſively taken from them. But the other uſeful plan is feaſible, and not liable to the ſame objections; would a few perſons of judgment and conſequence apply themſelves, they might with little trouble carry it into execution. This is not an unwarrantable conjecture; it is founded upon experience. The late worthy and ingenious Mr Maclaurin contrived and adjuſted a ſcheme of this nature for the widows and children of the Scotiſh clergy. His accurate calculations and unwearied pains had the deſired ſucceſs; for, in conſequence of them, a wiſe and humane law was paſſed not long ſince to enſure annuities, or a ſum of money, to the families of deceaſed clergymen in that country (3).

Archdeacon Kennet, afterwards Biſhop of Peterborough, in his Sermon before the Sons of the Clergy in the year 1702, has offered ſome conſiderations on this ſubject, which merit the attention of thoſe, who have inclination, as well as ability, to promote ſo good a deſign. He was of opinion that ſome advantages might ariſe from an hiſtorical account of the firſt erecting the corporation for the relief of the widows and children of poor

(3) See Account of the Life and Writings of Mr Maclaurin, prefixed to his Account of Sir Iſaac Newton's Philoſophical Diſcoveries, p. xix.

poor clergymen, of the ſeveral benefactions given to it, and of the manifold ſervices done by it. Though my retired ſituation will not furniſh me with ſufficient materials for the completion of this ſcheme; yet, ſince a ſhort relation of the difficulties the clergy, as married men, have undergone from the beginning of the reformation, till towards the end of the laſt century, with the probable cauſes of them, may be of uſe to others who have opportunities of making a further progreſs, I will beg leave to ſubjoin it: nor does it appear to be a poſtſcript foreign to the main purport of this letter.

No one will, Sir, I truſt, accuſe me of a want of candor, if I decline inrolling Henry VIII. in the liſt of proteſtant reformers. For, except in one inſtance, that of the Supremacy, he was inviolably attached to the moſt extravagant opinions and doctrines, and, what was worſe, poſſeſſed with the perſecuting and ſanguinary ſpirit of the church of Rome. We cannot therefore wonder, that this capricious Monarch ſhould think a married prieſt was of *evil example* (1) to the reſt of the world, and ſentence him to heavy fines and confiſcations, and to perpetual impriſonment. During the ſhort reign of that promiſing young Prince, Edward the Sixth, this law was repealed; but, on the acceſſion of his bigotted Siſter Mary, many clergymen were deprived of their preferments, while a law was in force permitting them to marry (2): the mercileſs Statutes of her Father were ſoon renewed, and

(1) Preamble to the Act of the Six Articles.
(2) Strype's Eccleſ Mem. vol. III. p. 110.

and involved thouſands of men and women, with their offſpring, in undeſerved infamy and want. As her ſucceſſor gloried in being the defender of the proteſtant religion; the eccleſiaſtics of this kingdom flattered themſelves that they ſhould once more be reſtored to the liberty of enjoying the natural pleaſures and comforts of mankind. They were, however, lamentably diſappointed. The celibacy of the clergy was one, and not the only one (3), of the errors of popery, which ſhe would willingly have maintained. In the firſt parliament ſummoned by Elizabeth, when many of the Statutes enacted by her cruel Siſter were reverſed, the proteſtant divines zealouſly ſtrove to revive the Act of Edward the Sixth; but no intreaties could prevail upon her to countenance ſo far the nuptial union of the clergy; ſhe would only connive at it (4). The *ſtrict* and *biting* (5) law, therefore, of Henry continued in force to the end of her reign: and by that means all the children of the married clergy were illegitimated. I am not clear, that there were not ſome proſecutions upon this Statute: be that as it may, ſhe diſcovered frequent ſymptoms of an incurable averſion to the marriage of eccleſiaſtics. By her Majeſty's expreſs order an injunction was iſſued to oblige dignitaries to remove their wives from the houſes allotted to their preferments: and had it not been for the ſpirit and addreſs of her prime miniſter, he was of opinion that ſhe had abſolutely forbidden churchmen to marry.

(3) Strype's Life of Archbiſhop Parker, p. 96. Hume's Hiſt. of Queen Eliz. c. 3.

(4) Strype's Annals, vol. I. p. 81.

(5) Shakeſpear's Meaſure for Meaſure.

marry. At another time, her Majeſty, in a converſation with Archbiſhop Parker, uttered ſuch bitter reflections againſt the holy eſtate of matrimony in the clergy, that that Prelate heard them with horror; and ſome of her expreſſions raiſed in him the moſt alarming apprehenſions leſt ſhe ſhould openly declare herſelf in favor of popery (1).

In

(1) Strype's Life of Archbiſhop Parker, pag. 107, 108, 109. From the avowed ſentiments and conduct of Q. Elizabeth as to the marriage of eccleſiaſtics, may not a difficulty be ſolved for which Biſhop Gibſon could not account? viz. Why the bodies of Statutes, prepared by Archbiſhop Parker and others for the government of the Deans and Chapters erected by Henry the Eighth, though they acted by the authority of her Majeſty, never received the royal aſſent. See Codex, vol. I. p. 205.— Dr Burn aſſigns, with a degree of doubtfulneſs, the following plauſible, but general reaſons; — either that the Queen was averſe to the power by which ſhe acted, or that ſhe might be willing to keep the church in dependence on the crown. Eccleſ. Law, under title of Deans and Chapters, 8vo. v. II. p. 91. But may it not have been an eſpecial motive for her refuſal, that the commiſſioners had not obeyed her commands in excluding by a fixed ordinance, the wives of the members of the reſpective bodies from their precincts. As the Archbiſhop and ſeveral of the commiſſioners were married, we muſt conclude that they would not, if poſſible, frame an injunction to debar their brethren of the privilege which they enjoyed themſelves; and they might eaſily avoid it, becauſe the Statutes given by Henry were the ground-plot and model of the new inſtitutions: And in the former, a particular order againſt the wives of the Deans and Prebendaries was improper and unneceſſary; the marriage of Prieſts being prohibited by the laws of the land under very der very ſevere penalties. The refuſal of the Queen, from whatever cauſe it proceeded, to confirm rules, which had been prepared with great induſtry and prudence, was of unſpeakable detriment to theſe reverend and learned ſocieties. See Strype's Life of Archbiſhop Parker, p. 342, 343, and Biſhop Scambler of Peterborough's Letter to the Queen in the Append. N° LXIV. See likewiſe Burn's Eccleſ. Law, vol. II. p. 82—103.

In thus debarring the clergy of a natural right, theſe princes ſeem to have borrowed from the Roman Pontifs a very refined plan of policy, which might have proved of fatal conſequence to them. As they were obliged to carry on a formidable and perpetual war againſt the Biſhops of Rome, in defence of their lives, and in vindication of the juſt rights of their crown; one ſhould rather have expected they would have drawn off from their inſolent enemy his main guard, by ſuffering and encouraging them to incorporate with their fellow ſubjects. The hiſtory of this and many other nations might have taught them, that the celibacy of eccleſiaſtics was the grand engine uſed in raiſing the Popes to the pinnacle of their ſupremacy. When that ſagacious and moſt arrogant Pontif Gregory VII. formed his arduous plan for eſtabliſhing a deſpotic power over all the kingdoms of the univerſe; his firſt ſtroke was to diſſolve the jurisdiction princes claimed of right over the clergy, and by vows of celibacy to bring them to an abſolute dependence on himſelf and his ſucceſſors. Archbiſhop Anſelm, one of the moſt ſtrenuous champions of the papiſtical encroachments, that this country gave birth to, purſued the ſame artful and pernicious ſcheme. And the governing members of the council of Trent, though earneſtly ſolicited by the moſt illuſtrious catholic Princes, and by ſome eminent eccleſiaſtics of their own communion, would not comply with their requeſts of granting the clergy a liberty to marry. The ingenuous Father Paul has given the true reaſon: that when freed from the reſtraint of celibacy they would be leſs obſequious to their ſpiritual ruler,

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and more dependant upon their reſpective ſovereigns(1). And moſt certainly an affection for a wife and children muſt endear a man's country to him. They are the ſureſt pledges of his obedience to the laws of it. Is it not therefore amazing that Henry and Elizabeth did not promote the marriage of eccleſiaſtics to make them good ſubjects (2)? The principles of a falſe religion may have a little influenced them, but I muſt own I cannot acquit them of a political deſign. Intoxicated with the ſupremacy they had lately recovered, they ſtudied more the extenſion of their own authority than the true intereſt of the public. They could not but have remarked how ſerviceable the detachment of the clergy from the other parts of the community had been to the ambitious views of the Roman Pontif; and as, in their opinion, the unlimited power uſurped by him was added to the regal prerogatives they before poſſeſſed, they might flatter themſelves, that by the ſame methods they ſhould be able to keep the clergy in an abject ſubmiſſion to the crown, and ready to execute their deſpotic commands. When Queen Elizabeth perceived that Archbiſhop Parker and ſome of his brethren remonſtrated, though with great decency, againſt her

(1) See a Diſcourſe of the neceſſity of the Engliſh reformation in the Preſervative againſt popery, vol. I. p. 16. in which the reverend author has referred to the following pages of Paoli Sarpi's Hiſt 514, 526, 647, 680.

(2) How different was the conduct of that wiſe and equitable Prince, Frederick King of Denmark, and how greatly did he contribute to the progreſs of the reformation in that kingdom, by procuring the famous Edict of the States at Odenſenſee, A. D. 1527. which permitted eccleſiaſtics of every rank and order to enter into the married ſtate. Dr Moſheim's Eccleſ. Hiſt. by Dr Maclaine, 8vo. vol. III. p. 347. note T.

her unreaſonable injunctions; ſhe told his grace, with unbecoming wrath, ſhe repented ſhe had ever made married men Biſhops, and wiſhed to recall her appointments(3). It ought not to paſs unnoticed that her immediate ſucceſſors, two of whom were of, and the other two guided by the counſels of bigots to, the Romiſh religion, and who all made continual attempts to deprive their ſubjects of their juſt rights and privileges, countenanced clergymen who were diſengaged from the ties of affection of a family. Whitgift was the beloved Archbiſhop of Elizabeth, Williams Biſhop of Lincoln was Lord Chancellor under James the firſt, Laud and Juxon were the favourites of his unfortunate ſon; and indeed from the death of Archbiſhop Parker to the revolution, there was not one married man raiſed to the primacy. Biſhop Burnet has obſerved that all the eccleſiaſtics in favor at court, in the reign of James II. were unmarried men, and that in particular Sancroft, who had a monaſtic ſtrictneſs, was promoted to the See of Canterbury, becauſe they concluded he was a man, that might be entirely gained to ſerve all their ends(4).

This partial preference ſhewn to clergymen, who were bachelors, was of no ſmall diſſervice to the orphan families of our order. On the acceſſion of the firſt prince of the Steuart race, the ſtatutes of Henry and Mary, which enjoined the celibacy of prieſts, were indeed repealed; but there is not, I ſuſpect, another general act of parliament that conſiders the clergy as married men, till the

(3) Strype's Life of Parker, Appendix, p. vii.
(4) Bp Burnet's Hiſtory of his own Times.

year 1689, though their caſe has ever been truly pitiable. In the firſt year of the reign of K. William and Q. Mary, a clauſe was inſerted in the Land tax bill to diſcharge the eſtates of the corporation of the ſons of the clergy from the payment of that duty(1): and the merit of obtaining this exemption may, in my opinion, be attributed to Dr Tillotſon, who was favored with the confidence of thoſe ever to be honored princes; and whoſe advice her majeſty eſpecially conſulted and regarded in all matters that related to the church and the clergy(2). As from an affectionate concern for his wife and children, and an apprehenſion of their being reduced to extreme want, if he enjoyed for a ſhort time only the exalted ſtation for which the King deſigned him, his Grace thought it prudent and neceſſary to recommend her to the royal protection(3), ſo we may conclude, his benevolent heart excited him to provide for the diſtreſſed families of his brethren. The clauſe before mentioned was a ſpecimen of the benefits they might have expected to have received under his eccleſiaſtical adminiſtration, had the valuable lives of the Queen and the Archbiſhop been preſerved for a few years. Is there not likewiſe reaſon to believe that the families of clergymen were obliged to them for another mark of indulgence ſhewed to them in a bill for granting to his majeſty certain rates

(1) The corporation do not enjoy the full benefit which was probably deſigned them by this clauſe, ſince by ſome ſubſequent Acts the exemption is limited to ſuch eſtates only as they were poſſeſſed of before March 25, 1693.

(2) Dr Birch's Life of Archbiſhop Tillotſon, p. 263, 312. Biſhop Burnet's Hiſt. of his own Times, vol. II. p. 117, 118. as alſo his Funeral Sermon on the Death of that Prelate, page 25, 26.

(3) Dr Birch's Life of Archbiſhop Tillotſon, p. 227.

rates and duties upon marriages, &c. This Act paſſed in April 1694, and was probably planned before the deceaſe of the Queen and his Grace of Canterbury. Dignitaries, by this Statute, were to pay the additional tax on marriages, and on the birth of children; and the inferior clergy were ſubject to the payment of no greater ſum than the laity of the lower ranks.

You will, Sir, be apt to remind me, that we owe to K. Charles II. the charter of the corporation for the relief of widows, &c. of clergymen. It ſhall be readily confeſſed, and he is intitled to our hearty thanks for the many advantages that were the conſequences of it. However, I hope, I ſhall not be cenſured as captious and ungrateful, becauſe I cannot allow, that a Prince, who lived a concealed, and died a profeſſed papiſt, could have a true regard for the children of eccleſiaſtics. I judge that he was moved to paſs this grant, to ſilence the importunate complaints of the widows and deſcendents of many worthy men, who loſt their preferments and their fortunes for their ſteady adherence to the cauſe of his Father and himſelf. The ſtraitneſs of his finances, owing to his unbounded and profligate extravagance, would not permit him to recompence their loſſes in the manner they deſerved: he was, therefore, prevailed upon to countenance and encourage thoſe perſons who appeared forward to contribute to their relief. The preamble to the charter aſſigns theſe reaſons for his conduct. There is a ſtriking difference in this reſpect between this Monarch and one of the beſt of Princes, George the Firſt; who, in the beginning of his auſpicious reign, enlarged

the powers of this charter, and at the ſame time, promoted the deſigns of it by his royal example (1).

It would, I am informed, fill ſome pages to enumerate our ſeveral benefactors. Among theſe Dr Thomas Turner, formerly preſident of C. C. C. Oxford, ought ever to be mentioned with peculiar honor; ſince, not unmindful of his relations and friends, he left to the corporation the reſidue of his eſtate, which amounted to upwards of £20000. But, ample as the donations have been, we muſt lament the deficiency of the fund, to anſwer the conſtant demands that are made upon it from every part of the kingdom. It appears from Dr Samuel Nicoll's ſermon (2) at the anniverſary meeting in the year 1746, that nine hundred widows, entirely deſtitute of all ſubſiſtence, had then applied for relief; that the number of petitioners had increaſed every year, and that the corporation were not in circumſtances to aſſiſt half the number of thoſe, who were recommended to them. And all ſurprize muſt vaniſh that the petitioners are ſo numerous, and ſuch real objects of diſtreſs; when we reflect that, upon a ſurvey made in the year 1707, the annual value of more than half the pariſhes in England was found not to exceed fifty pounds (3). Some perſons will ſay, it has been frequently advanced, that the clergy ſhould take upon

(1) By the original charter the corporation were enabled to hold lands to the value of £2000 ℔ year, and K. George I. extended their capacity to £5000. His Majeſty alſo gave the corporation £500.

(2) Page 26, note.

(3) 5595 livings certified under £50 a year, and of theſe, the annual value of 1071 does not exceed £10. Burn's Eccleſ. Law, under title Firſt-fruits, 8vo. vol. II. p. 248.

upon themſelves the burden of ſupporting the orphan families of the members of their own profeſſion. And it may be affirmed with a ſtrict regard to truth, that they have not failed to contribute, in proportion to their abilities, to the neceſſities of the widows and children of their poor brethren. Inattentive as the ſuperior clergy ſeem to have been to the neceſſitous orphan families of the inferior members of their order for many years after the reformation; their ſucceſſors, whether married or unmarried, have ſince the concluſion of the civil wars endeavoured to remove their wants. From a view of the depreſſed and indigent ſtate, to which many relicts of orthodox and loyal miniſters were reduced in that dreadful ſcene of confuſion and rapine, Biſhop Warner of Rocheſter amply endowed a college for the reception of twenty of them. And Biſhops Morley and Ward made a ſimilar proviſion for the widows of clergymen in their reſpective dioceſes of Wincheſter and Saliſbury. I could with pleaſure, was I not cautious of offending thoſe whom I muſt be always ſtudious to oblige, point out likewiſe inſtances among the Prelates of this age, who have by the moſt generous actions ſhewed themſelves to be friends to the widows, and fathers to the fatherleſs. In aid of the charter corporation, which diſpenſes its bounty to every corner of the iſland, private Societies have of late years been formed in ſeveral dioceſes, for the relief of the families of deceaſed clergymen in their reſpective diſtricts: and there is no reaſon to doubt but that the contributions would increaſe under the ſanction of an Act of the legiſlature. Many ſchemes have been framed and attempts made to ſettle a fund, which will fully ſupply the defects of precarious

and

and capricious donations. They have however failed, becauſe, I conclude, they were injudicious, ill-digeſted, or might be unſeaſonably offered. The amendment of the law, which has been examined in this Letter, will not, I own, be of the ſame extenſive uſe; but it muſt be of eſſential ſervice to the families of the clergy in the height of their diſtreſſes, and, as far as I can judge, is free from every material objection.

Before, Sir, I complied with the repeated ſolicitations of yourſelf and other friends to commit to writing theſe remarks; it was my aſſiduous endeavour to acquire as competent a knowledge, as my ſituation would afford, of the motives and views which gave riſe to the Statute in queſtion; and to trace the alterations that a courſe of years, and a variety of incidents, had occaſioned ſince the period of its commencement. Conſcious I am of the many defects in the manner of digeſting the materials, and of a want of accuracy in my ſtile; but I can aſſert, that I have not wilfully miſrepreſented the facts, nor drawn any concluſion, which did not ſeem to be clearly deducible from them. It will be needleſs to recapitulate the ſeveral arguments which have been urged: however, I cannot forbear reminding you of two, which appear to have the greateſt weight.

Permit me then, once more, to obſerve, that the Act paſſed in a reign, when thouſands, who are now injured by it, were never intended to have an exiſtence. The diſcouragement given to the marriage of eccleſiaſtics by five Princes in ſucceſſion, from a view of keeping them in an abſo-

lute,

lute, and for the public, a dangerous dependence upon the crown for more than a century, prevented probably, during that time, an amendment of it. The cauſes, which have ſince obſtructed an alteration, I am at a loſs to determine. It is a peculiar felicity of the preſent age, that the clergy and the laity are ſo cloſely incorporated, that there is not the leaſt danger of the former ſetting up an intereſt diſtinct from that of the people. This union may in part be attributed to intermarriages, and alſo to a plan of policy, adopted ſoon after the reſtoration, of taxing them in the ſame manner, and by the ſame authority. But, as they are ſubject to the ſame mode of taxation, ought one to be debarred of a benefit which the other enjoys? And yet, the heirs of all tenants for life, except clergymen, are intitled to a proportion of the rent of the eſtate according to the time for which it is charged.——*Equitas ſequitur legem*, ought to be an invariable rule. In this inſtance, juſtice and equity, and the law, move in lines very different, and far diſtant. The worthy inſtruments, who ſhall rectify the deviation, muſt merit the ſincere thanks of every country clergyman; they will, I am ſatisfied, receive them from yourſelf, from hundreds, as well as from,

Dear SIR,

Your faithful

and obliged ſervant,

24th JAN. 1770.

RUSTICUS.